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enlarged by Professor Bigelow as follows: "It is sometimes said that in the first case [of an unprovoked felonious assault] the assailed person need under no circumstances retreat, in order to make the killing justifiable. As a matter of both public policy and legal principle it would seem that the other view is clearly preferable." The learned editor reinforces the statement in the text by the following reference in the footnote: "For a discussion of the rise of this doctrine and a collection of the cases, see an article by Professor J. H. Beale, Jr., in 16 Harvard Law Review, 567."

Many other instances might be chosen of the excellent judgment as well as the law of the editor, and the footnotes, while comparatively few in number, are ample for the student, for whom such a work must be and is primarily intended. It is without hesitation the best short treatise on the subject of Crimes. This pre-eminence is due to the care and accuracy of the editors rather than to the merit of the original work. "If a jest's prosperity lies in the ear of him that hears it," it is no less true that the success of the book lies in its editors.

THE ENGLISH AND INDIAN LAW OF TORTS. By Ratanlal Ranchhoddas and Dhirajlal Keshavlal Thakor. Third Edition. Bombay: The Bombay Law Reporter Office. 1905. pp. c, 508.

Although the authors have carefully revised this work and added many new cases, in preparing the third edition, they have diminished instead of increasing its bulk. Portions of the old text, as well as a few citations of authorities, have been omitted, but the space thus saved has not been filled with new matter, although many a new paragraph has been added. The changes appear to be improvements in every case.

Other changes might have been made to the further improvement of the book. For example, the authors repeat the statement, made in former editions, that "a tort is a violation of a right *in rem*, i. e., of a right vested in some determinate person, either personally or as a member of the community and available against the world at large." Undoubtedly most torts are violations of a right *in rem*, as thus defined; but some are not. An innkeeper commits a tort by turning away a respectable traveller who asks for refreshments and tenders its proper price; but he does not violate a right which is available to the traveller against the whole world. Indeed, the whole world, save the class of innkeepers, could have turned this very traveller away from its inhospitable doors, without committing a tort.

Another statement which might well be changed in future editions, is that, "to constitute a tort, a wrongful act must be committed." Certainly the courts have long rejected this notion of Austin, that to refrain from committing a tort, a person has only to refrain from acting. Negative torts form a large and important class in modern litigations. Notwithstanding these defects the book, as we stated in a former review of it in the REVIEW,<sup>1</sup> is a valuable addition to the literature of this fascinating topic.

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<sup>1</sup> 4 COLUMBIA LAW REVIEW, 446.